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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,696	09/30/2003	James McKernan	2705-0730	8141
73552 7590 02/18/2009 Stolowitz Ford Cowger LLP 621 SW Morrison St Suite 600 Portland, OR 97205				
EXAMINER				
EL CHANTIL, HUSSEIN A				
ART UNIT		PAPER NUMBER		
2457				
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02/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/676,696

Applicant(s)

MCKERNAN ET AL.

Examiner

HUSSEIN A. EL CHANTI

Art Unit

2457

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 18-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to RCE received Jan. 26, 2009. Claims 1-10 and 18-29 are pending examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 7-10 and 18-23 rejected under 35 U.S.C. 102(e) as being anticipated by Blickenstaff et al. U.S. Patent No. 5,832,522 (referred to hereafter as Blick).

As to claims 1 and 18, Blick teaches a method and a computer readable medium for migrating content on a network comprising:

accessing a migration file comprised of a plurality of network entries, each of said network entries comprised of one or more network addresses (see col. 4 lines 40-col. 5 lines 7 and col. 11 lines 21-37),

reformatting said migration file as a switch compliant file comprised of a switch compliant language, wherein said switch compliant language complies with one or more of Open Systems Interconnection (OSI) data connectivity model layers 4 to 7 (see col. 11 lines 38-59);

receiving a request to access a current network address, wherein said current network address and a new network address are associated with one entry of said plurality of network entries (see col. 16 lines 19-67),

automatically directing the request to access said current network address to said new network address based on an analysis of said one entry in said switch compliant file (see col. 16 lines 19-67).

As to claim 2, Blick teaches the method as recited in Claim 1 further comprising:

Reading a status of said one entry from said migration file (see col. 16 lines 19-67).

As to claim 7, Blick teaches the method as recited in Claim 1 wherein said new environment is on a new server distinct from a server maintaining an old environment (see col. 16 lines 19-67).

As to claim 8, Blick teaches the method as recited in Claim 1 wherein said new environment is on a same server as an old environment (see col. 16 lines 19-67).

As to claim 9, Blick teaches the method as recited in Claim 1 wherein said new environment is partially on a new server distinct from a server maintaining said old environment and partially on a same server as said old environment (see col. 16 lines 19-67).

As to claim 10, Blick teaches the method as recited in Claim 1 further comprising:

rolling back said content switch to direct access to an old environment if said new environment is unacceptable (see col. 16 lines 19-67).

Claims 19-23 have similar limitations as claims 2 and 7-10 and therefore are rejected under similar rationale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-6 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blick in view of Papatla et al., U.S. Patent No. 7,379,996 (referred to hereafter as Papatla).

As to claims 3-5, Blick teaches a method and a computer readable medium for migrating content on a network comprising: accessing a migration file comprised of a plurality of network entries, each of said network entries comprised of one or more network addresses (see col. 4 lines 40-col. 5 lines 7 and col. 11 lines 21-37), reformatting said migration file as a switch compliant file comprised of a switch compliant language, wherein said switch compliant language complies with one or more of Open Systems Interconnection (OSI) data connectivity model layers 4 to 7 (see col. 11 lines 38-59); receiving a request to access a current network address, wherein said current network address and a new network address are associated with one entry of said plurality of network entries (see col. 16 lines 19-67), automatically directing the request to access said current network address to said new network address based on an analysis of said one entry in said switch compliant file (see col. 16 lines 19-67). Blick

does not explicitly teach that the that the migration file is parsed with scripts language where the language is XML.

Papatla, however, teaches a system and method for creating a migration file to transfer content on a network where the migration file is created using XML (see col. 6 lines 24-67). It would have been obvious for one of the ordinary skill in the art at the time of the invention to implement the migration file of Blick using XML as in Papatla. Motivation to do so comes from the knowledge well known in the art that XML is a simple language and very commonly used and would therefore make the system and method compatible with most systems.

As to claim 6, Blick does not explicitly teach that the switch is a layer 4-7 switch. Official notice is taken that it would have been obvious for one of the ordinary skill in the art at the time of the invention to implement a 4-7 switch because doing so would achieve the same end result which is to migrate content over a storage network.

As to claim 24-26, Blick teaches a method and a computer readable medium for migrating content on a network comprising: accessing a migration file comprised of a plurality of network entries, each of said network entries comprised of one or more network addresses (see col. 4 lines 40-col. 5 lines 7 and col. 11 lines 21-37), reformatting said migration file as a switch compliant file comprised of a switch compliant language, wherein said switch compliant language complies with one or more of Open Systems Interconnection (OSI) data connectivity model layers 4 to 7 (see col. 11 lines 38-59); receiving a request to access a current network address, wherein said current network address and a new network address are associated with one entry of

said plurality of network entries (see col. 16 lines 19-67), automatically directing the request to access said current network address to said new network address based on an analysis of said one entry in said switch compliant file (see col. 16 lines 19-67). Blick does not explicitly teach that the that the migration file is parsed with scripts language where the language is XML.

Papatla, however, teaches a system and method for creating a migration file to transfer content on a network where the migration file is created using XML (see col. 6 lines 24-67). It would have been obvious for one of the ordinary skill in the art at the time of the invention to implement the migration file of Blick using XML as in Papatla. Motivation to do so comes from the knowledge well known in the art that XML is a simple language and very commonly used and would therefore make the system and method compatible with most systems.

As to claim 27, Blick teaches the method as recited in Claim 24 wherein said new environment is on a same server as an old environment (see col. 16 lines 19-67).

As to claim 28, Blick teaches the method as recited in Claim 24 wherein said new environment is partially on a new server distinct from a server maintaining said old environment and partially on a same server as said old environment (see col. 16 lines 19-67).

As to claim 29, Blick teaches the method as recited in Claim 24 further comprising:

rolling back said content switch to direct access to an old environment if said new environment is unacceptable (see col. 16 lines 19-67).

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Response to Arguments

5. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejection.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUSSEIN A. EL CHANTI whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Signature: /Hussein Elchanti/

Feb. 8, 2009